

REMARKS

The pending Office Action addresses and rejects claims 1-8, 10-14, 16-21, 23-27, and 29-33. Claims 29-31 were previously withdrawn from consideration. Reconsideration is respectfully requested in view of the above amendments and following remarks.

At the outset, Applicants thank Examiner Woodward for extending the courtesy of a telephone interview on March 6, 2010 to Applicants' undersigned representative. During the interview, amendments were discussed to clarify the language of independent claims 1 and 19 with respect to the claimed density range of the dry laid nonwoven polymeric material. The Examiner proposed amending the claims to recite that the dry laid nonwoven polymeric material consists of a density in the range of about 120 mg/cc to 360 mg/cc and agreed that such an amendment would distinguish over the cited art. The Examiner also agreed to enter amendments consistent with this proposal. The Examiner further agreed to withdraw the outstanding double patenting rejections.

Amendments to the Claims

Claims 1 and 19 are amended in the manner proposed by the Examiner at Interview. Previously withdrawn claims 29-31 are cancelled. No new matter is added.

Rejections Under 35 U.S.C. §103

Claims 1-8, 10-14, 16-21, 23-27, and 32-33 are rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0127265 of Bowman et al. ("Bowman") and International Patent Publication No. WO 01/85226 of Huckle et al. ("Huckle") as exemplified by Boland et. al. (*J. Macromol. Sci.-Pure Appl. Chem.*, 2001, A38(12), p 1231-1243) ("Boland"). Applicants respectfully disagree with the Examiner's rejection.

Independent claim 1 recites that the dry laid nonwoven polymeric material consists of a density in the range of about 120 mg/cc to 360 mg/cc. Independent claim 19 recites a dry laid nonwoven polymeric material consisting of a density in the range of about 120 mg/cc to 360 mg/cc. As agreed at interview, the amended claims distinguish over the cited references and therefore represent allowable subject matter. In particular, none of the cited references, whether taken alone or in combination, teach or suggest a nonwoven material with a density in the claimed range.

Bowman fails to provide any teaching or suggestion regarding the density of a nonwoven material except for a “mesh material” that is disclosed as being a “low density, or open knitted mesh material.” Bowman at paragraph 0066. Moreover, Bowman is directed to scaffold including foam reinforced with a mesh material that has an open structure so that the foam can penetrate the mesh. *See* Bowman at paragraph 10, FIG. 6. Thus, Bowman fails to teach or suggest a nonwoven material that consists of a density in the claimed range.

Huckle discloses a “needled felt” with “a density of 93 mg/cm³.” Huckle at page 21, lines 14-15. Thus, the nonwoven material disclosed by Huckle has a density at least 30% lower than the claimed density range. Huckle therefore fails to teach or suggest a nonwoven material with a density in the claimed range.

Huckle discloses that the felt can be immersed in a PCL solution and then dried. *See* Huckle at page 21, lines 20-32. The resulting scaffold is no longer just a non-woven material. Instead, it is a composite consisting of the original felt material and a coating of dried PCL. In the absence of the PCL coating, the non-woven felt within the composite scaffold would still have its original density of 93 mg/cm³. Thus, at best, Huckle discloses a scaffold that includes a needled felt with a density of 93 mg/cm³ and a PCL coating. Although the PCL coating allegedly increases the density of the composite scaffold, it does not change the density of the original non-woven material. The claimed density range of about 120 mg/cc to 360 mg/cc is between 30% and 400% higher than the density of the needled felt disclosed by Huckle. Huckle therefore fails to teach or suggest a nonwoven polymeric material that consists of a density in the claimed range.

As discussed above, Bowman and Huckle each fail to teach or suggest a nonwoven polymeric material that consists of a density in the claimed density range. Thus, even if the references were combined, the combination would also fail to teach or suggest Applicants’ claimed invention.

Accordingly, as agreed at interview, claims 1 and 19 distinguish over the combination of Bowman and Huckle and represent allowable subject matter. Claims 2-8, 10-14, 16-18, 20, 21, 23-27, and 32-33, which depend from either claim 1 or 19, distinguish over the cited art at least because they depend from an allowable base claim.

Obviousness-Type Double Patenting Rejections

As noted above, the Examiner agreed at interview to withdraw the outstanding non-statutory obviousness-type double patenting rejections over co-pending Application Nos. 11/856,743 and 11/856,741 and permit this application to issue as a patent without a terminal disclaimer.

Conclusion

Applicants submit that all pending claims are allowable, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed necessary to expedite prosecution of this application.

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Respectfully submitted,

By /George A. Xixis/
George A. Xixis
Registration No.: 38,664
NUTTER MCCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
(617)439-3746
(617) 310-9746 (FAX)
Attorney for Applicants

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